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March 22, 2002

Mr. Michael Kallet
EVP Operations, CTO
ICG Telecom Group, Inc.
161 Inverness Drive West
Englewood, CO 80112

Re: Requested Adoption Under the FCC Merger Conditions

Dear Mr. Kallet:

Verizon New England Inc., d/b/a Verizon Massachusetts, f/k/a New England Telephone and Telegraph Company, d/b/a Bell Atlantic - Massachusetts ("Verizon"), has received your letter stating that, pursuant to paragraph 31 (a) of the BA/GTE Merger Conditions ("Merger Conditions"), released by the FCC on June 16, 2000 in CC Docket No. 98-184, ICG Telecom Group, Inc. ("ICG") wishes to provide services to customers in Verizon's service territory in the Commonwealth of Massachusetts by adopting the voluntarily negotiated terms of the Interconnection Agreement between ICG Telecom Group, Inc. ("ICG") and Verizon California Inc., f/k/a GTE California Incorporated ("Verizon California") that was approved by the California Public Utilities Commission as an effective agreement in the State of California, as such agreement exists on the date hereof after giving effect to operation of law (the "Verizon California Terms").

I understand that ICG has a copy of the Verizon California Terms which, in any case, are attached hereto as Appendix 1. Please note the following with respect to ICG's adoption of the Verizon California Terms.

1. By ICG's countersignature on this letter, ICG hereby represents and agrees to the following three points:
 - (A) ICG agrees to be bound by and adopts in the service territory of Verizon, the Verizon California Terms, as they are in effect on the date hereof after

giving effect to operation of law, and in applying the Verizon California Terms, agrees that references to ICG Telecom Group, Inc. and ICG in the Verizon California Terms shall apply for this adoption as well as for the underlying agreement.

- (B) Notice to ICG and Verizon as may be required or permitted under the Verizon California Terms shall be provided as follows:

To ICG:

Attention: LaCharles Keesee
161 Inverness Drive West
Englewood, CO 80112
Telephone Number: 303-414-5896
Facsimile Number: 303-414-5817
Internet Address: lacharles_keesee@icgcomm.com

To Verizon:

Director-Contract Performance & Administration
Verizon Wholesale Markets
600 Hidden Ridge
HQEWMNOTICES
Irving, TX 75038
Telephone Number: 972-718-5988
Facsimile Number: 972-719-1519
Internet Address: wmnotices@verizon.com

with a copy to:

Vice President and Associate General Counsel
Verizon Wholesale Markets
1515 North Court House Road
Suite 500
Arlington, VA 22201
Facsimile: 703-351-3664

- (C) ICG represents and warrants that it is a certified provider of local telecommunications service in the Commonwealth of Massachusetts, and that its adoption of the Verizon California Terms will only cover services in the service territory of Verizon in the Commonwealth of Massachusetts.

2. ICG's adoption of the Verizon California Terms shall become effective on March 29, 2002. Verizon shall file this adoption letter with the Massachusetts Department of Telecommunications and Energy ("Commission") promptly upon receipt of an original of this letter, countersigned by an authorized officer of ICG. The term and termination provisions of the ICG/Verizon California agreement shall govern ICG's adoption of the Verizon California Terms. ICG's adoption of the Verizon California Terms is currently scheduled to expire on June 20, 2004.
3. As the Verizon California Terms are being adopted by ICG pursuant to the Merger Conditions, Verizon does not provide the Verizon California Terms to ICG as either a voluntary or negotiated agreement. The filing and performance by Verizon of the Verizon California Terms does not in any way constitute a waiver by Verizon of any position as to the Verizon California Terms or a portion thereof. Nor does it constitute a waiver by Verizon of any rights and remedies it may have to seek review of the Verizon California Terms, or to seek review of any provisions included in these Verizon California Terms as a result of ICG's election pursuant to the Merger Conditions.
4. For avoidance of doubt, please note that adoption of the Verizon California Terms will not result in reciprocal compensation payments for Internet traffic. Verizon has always taken the position that reciprocal compensation was not due to be paid for Internet traffic under section 251(b)(5) of the Act. Verizon's position that reciprocal compensation is not to be paid for Internet traffic was confirmed by the FCC in the Order on Remand and Report and Order adopted on April 18, 2001 ("*FCC Remand Order*"), which held that Internet traffic constitutes "information access" outside the scope of the reciprocal compensation obligations set forth in section 251(b)(5) of the Act.¹ Accordingly, compensation for Internet traffic, if any, is governed by the terms of the *FCC Remand Order*, not pursuant to adoption of the Verizon California Terms.² Moreover, in light of the *FCC Remand Order*, even if the Verizon California Terms include provisions invoking an intercarrier compensation mechanism for Internet traffic, any reasonable amount of time permitted for adopting such provisions has expired under the FCC's rules implementing section 252(i) of the Act.³ In fact, the *FCC Remand Order* made clear that carriers may not adopt provisions of an existing interconnection

¹ Order on Remand and Report and Order, In the Matters of: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68 (rel. April 27, 2001) ("*FCC Remand Order*") ¶44.

² For your convenience, an industry letter distributed by Verizon explaining its plans to implement the *FCC Remand Order* can be viewed at Verizon's Customer Support Website at URL www.verizon.com/wise (select Verizon East Customer Support, Resources, Industry Letters, CLEC).

³ See, e.g., 47 C.F.R. Section 51.809(c). These rules implementing section 252(i) of the Act apply to interstate adoptions under the Merger Conditions as well. See, e.g., Merger Conditions ¶ 32 (such adoptions shall be made available "under the same rules that would apply to a request under 47 U.S.C. Section 252(i)").

agreement to the extent that such provisions provide compensation for Internet Traffic.⁴

5. ICG's adoption of the Verizon California Terms pursuant to the Merger Conditions is subject to all of the provisions of such Merger Conditions. Please note that the Merger Conditions exclude the following provisions from the interstate adoption requirements: state-specific pricing, state-specific performance measures, provisions that incorporate a determination reached in an arbitration conducted in the relevant state under 47 U.S.C. Section 252, and provisions that incorporate the results of negotiations with a state commission or telecommunications carrier outside of the negotiation procedures of 47 U.S.C. Section 252(a)(1). Verizon, however, does not oppose ICG's adoption of the Verizon California Terms at this time, subject to the following reservations and exclusions:
 - (A) Verizon's standard pricing schedule for interconnection agreements in Massachusetts (as such schedule may be amended from time to time) (attached as Appendix 2 hereto), which includes (without limitation) rates for reciprocal compensation, shall apply to ICG's adoption of the Verizon California Terms. ICG should note that the aforementioned pricing schedule may contain rates for certain services the terms for which are not included in the Verizon California Terms or that are otherwise not part of this adoption. In an effort to expedite the adoption process, Verizon has not deleted such rates from the pricing schedule. However, the inclusion of such rates in no way obligates Verizon to provide the subject services and in no way waives Verizon's rights under the Merger Conditions.
 - (B) ICG's adoption of the Verizon California Terms shall not obligate Verizon to provide any interconnection arrangement or unbundled network element unless it is feasible to provide given the technical, network and Operations Support Systems attributes and limitations in, and is consistent with the laws and regulatory requirements of the Commonwealth of Massachusetts and with applicable collective bargaining agreements.
 - (C) On January 25, 1999, the Supreme Court of the United States issued its decision on the appeals of the Eighth Circuit's decision in Iowa Utilities Board. The Supreme Court modified several of the FCC's and the Eighth Circuit's rulings regarding unbundled network elements and pricing requirements under the Act. *AT&T Corp. v. Iowa Utilities Board*, 119 S. Ct. 721 (1999). Certain provisions of the Verizon California Terms may be void or unenforceable as a result of the Supreme Court's decision of January 25, 1999, the United States Eighth Circuit Court of Appeals' decision in Docket No. 96-3321 regarding the FCC's pricing rules, and the current appeal before the Supreme Court of the United States regarding the FCC's UNE rules. Moreover, nothing herein shall be construed as or

⁴ *FCC Remand Order* ¶ 82.

is intended to be a concession or admission by Verizon that any provision in the Verizon California Terms complies with the rights and duties imposed by the Act, the decisions of the FCC and the Commissions, the decisions of the courts, or other law, and Verizon expressly reserves its full right to assert and pursue claims arising from or related to the Verizon California Terms.

- (D) Terms, conditions and prices contained in tariffs cited in the Verizon California Terms shall not be considered negotiated and are excluded from ICG's adoption.
 - (E) ICG's adoption does not include any terms that were arbitrated in the Verizon California Terms.
6. Verizon reserves the right to deny ICG's adoption and/or application of the Verizon California Terms, in whole or in part, at any time:
- (A) when the costs of providing the Verizon California Terms to ICG in Massachusetts are greater than the costs of providing them to ICG in California;
 - (B) if the provision of the Verizon California Terms to ICG is not technically feasible in Massachusetts;
 - (C) if the Verizon California Terms were negotiated between ICG and Verizon California on or before June 30, 2000; and/or
 - (D) if Verizon otherwise is not obligated to permit such adoption and/or application under the Merger Conditions or under applicable law.
7. Should ICG attempt to apply the Verizon California Terms in a manner that conflicts with paragraphs 3-6 above, Verizon reserves its rights to seek appropriate legal and/or equitable relief.

In the event that a voluntary or involuntary petition has been or is in the future filed against ICG under bankruptcy or insolvency laws, or any law relating to the relief of debtors, readjustment of indebtedness, debtor reorganization or composition or extension of debt (any such proceeding, an "Insolvency Proceeding"), then: (i) all rights of Verizon under such laws, including, without limitation, all rights of Verizon under 11 U.S.C. § 366, shall be preserved, and ICG's adoption of the Verizon California Terms shall in no way impair such rights of Verizon; and (ii) all rights of ICG resulting from ICG's adoption of the Verizon California Terms shall be subject to and modified by any Stipulations and Orders entered in the Insolvency Proceeding, including, without limitation, any Stipulation or Order providing adequate assurance of payment to Verizon pursuant to 11 U.S.C. § 366.

Please arrange for a duly authorized representative of ICG to sign this letter in the space provided below and return it to the undersigned.

Sincerely,

VERIZON NEW ENGLAND INC. D/B/A VERIZON MASSACHUSETTS

Jeffrey A. Masoner
Vice President – Interconnection Services Policy & Planning

Reviewed and countersigned as to points A, B, and C of paragraph 1:

ICG TELECOM GROUP, INC.

By_____

Title_____

Attachment

c: Hernando Londono - Verizon (w/out attachments)